

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1372 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

RAMJIBHAI HARIBHAI KOLI

Versus

VAISHNAV HAVLI SHIVRAJGADH

Appearance:

MR AR THACKER for Petitioners

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 27/12/2000

ORAL JUDGEMENT

Ramjibhai Haribhai Koli and others-petitioners
(original-defendants) have filed this revision
application challenging the order dated 12.12.2000 passed
by the Extra Assistant Judge, Gondal, in Miscellaneous
Civil Appeal No. 52 of 2000 wherein the learned judge was
pleased to allow the appeal and set aside the order dated

18.8.2000 passed by the 2nd Joint Civil Judge (J.D.),
Gondal, below application Exh. 5 in Regular Civil Suit
No. 82/2000.

2. The facts giving rise to this application are as under:

2.1 The plaintiff trust through its trustees had filed Suit for permanent injunction and declaration in respect to the agricultural land bearing Survey No. 259, admeasuring 13 Acres 2 gunthas situated in the sim of village Shivrajgadh, Tal. Gondal on the allegation that the plaintiff trust was the owner and in occupation of agricultural land bearing Survey No. 259, 249 of village Shivrajgadh. It was contended that the said agricultural land was later on acquired by the Government for the construction of Bhadar Irrigation Dam. Later on the said land was not required for the said purpose by the Government and therefore it was regranted to the plaintiff trust by recovering the compensation paid by the Government to the trust and accordingly, both these Survey numbers have been entered on the name of the plaintiff Trust in Revenue Record. It was contended that in the year 1998, the plaintiff trust had got cultivated the land Survey No. 259, admeasuring 13 acres 2 gunthas which is well described in plaint at para 5.

2.2 It was further contended that Harsukhbhai Mohanbhai, Nathubhai Gokalbhai and Haribhai Vallabhbhai had gone to the suit land along with the tractor for carrying out cultivation on behalf of the plaintiff trust and while they were ploughing the suit land on 2.4.2000, defendant Nos. 2 to 4 petitioners herein had assaulted them. Therefore, they lodged a complaint in the police station. It was contended that the plaintiff trust is the owner and the defendants have no right, title or interest to commit trespass over the suit land and despite that they are likely to interfere with the possession of the trust and to cause injuries and to assault the persons who are likely to cultivate the land on behalf of the trust and thereby the intention of defendants is to grab the land belonging to the trust and therefore, they are required to be restrained from doing such unlawful act. The plaintiffs therefore filed suit for seeking relief of declaration that the defendants have no right to interfere with the possession of the trust over the suit land together with the relief of permanent injunction restraining the defendants from committing trespass over the suit land.

2.3 Together with the said suit an application for

ad-interim injunction was filed. The learned Trial Judge was pleased to pass an ex-parte order of maintaining status quo by both the parties. The defendant filed written statement at Exh. 21 and denied all the averments made in the plaint. The learned trial judge after hearing the parties and considering all the documents by his judgement and order dated 18.8.2000 was pleased to reject the injunction application of the plaintiff.

2.4 Being aggrieved and dissatisfied with the aforesaid order, the original plaintiff filed Civil Miscellaneous Appeal No. 52 of 2000 before the Assistant Judge, Rajkot District at Gondal. The Extra Assistant Judge, Gondal, by his judgement and order dated 12.12.2000 was pleased to allow the appeal on the ground that the plaintiff has been able to prove prima facie case that they were in possession of the land in question and defendant Nos. 2 to 4 tried to interfere with the possession of the trust over the suit land and the plaintiff has produced valid evidence of title over the suit land.

3. Being aggrieved with the aforesaid judgement and order of the learned Judge, the petitioners original defendants filed this revision application before this court. Mr. A.R. Thakkar, learned advocate for the petitioners contended that the learned Assistant Judge has clearly erred in coming to the conclusion that the plaintiff has prima facie proved his title to this property. In view of the findings of the appellate court, the learned advocate for the petitioners would not be able to find out any jurisdictional error in this behalf and there is no error apparent on the face of the record and the revision application is required to be rejected. Accordingly the revision application is rejected. No order as to costs.

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